

REMARKS

In the Restriction Requirement mailed March 20, 2007, the Examiner asserts that the claims of the above-captioned application are related as patentably distinct inventions including Invention I, consisting of claims 1-11, 15, 16, and 18, deemed drawn to a multilayer product and classified in class 428, subclass 298.1+, and Invention II, consisting of claims 12-14, 17, 19, and 20, deemed drawn to a process of making a multi-layered product and classified in class 156, subclass 308.2. Applicant elects, with traverse, what the Examiner has characterized as Invention I and associated with claims 1-11, 15, 16, and 18.

The Examiner asserts that the alleged Inventions I and II are related as process of making and product made and that the product as claimed can be made by materially different process such as molding, layering, stamping, and pressing. Applicant is uncertain how this analysis renders the different claim sets patentably distinct. Neither claim 1, provisionally assigned to claim Group I, nor claim 12, assigned to claim Group II, claim a variant of the processes. That is, these arbitrary examples provided by the Examiner are applicable to the claims of both Group I and Group II. In fact, both claims 1 and 12 clear recite a layered structure. The similarities between the claims of the alleged groups cannot simply be ignored or dismissed. The claimed invention is clearly defined in each of the independent claims of the alleged "Groups". The similarity between these claims is apparent and clearly evidences the unreasonableness of the present restriction.

The Examiner further asserts that, because these inventions are independent or distinct for the reasons given above, "there would be a serious burden on the Examiner if restriction is not required because the inventions have acquired a separate status in the art due to their recognized divergent subject matter." Applicant respectfully disagrees.

Although Applicant appreciates the Examiner's efforts with respect to discussing this matter with Attorney Kirk Deheck (Reg. No. 55,782) of the undersigned's Office, on Thursday May 17, 2007, and the telephone conference referenced in the papers mailed with the Pre-appeal

Brief Review Panel Decision of March 8, 2007, it seems apparent that a resolution of this matter before this Examiner is now improbable. Accordingly, Applicant requests that the clarifying amendments to the claims presented herein be entered as placing the application in better condition for appeal. The claims of the above-captioned application have been prosecuted up to, and including, a Pre-Appeal Brief Panel Decision. The pending restriction requirement only now frustrates and protracts prosecution of this matter.

As stated in MPEP §803, restriction may not be required even if the claimed inventions are distinct and there would not be any “serious burden” on the Examiner to search and exam all the claims. Setting aside the new class and subclass assignments, the claims of this application have been prosecuted thus far all the way to a Pre-Appeal Brief Panel Decision. Only upon the Panel’s remand of this matter to the Examiner has the Examiner now found that continued examination of the claims of this matter present a “serious burden”. Assumably, any “serious burden” that may have been present was surpassed during the initial prosecution of the claims of this application. Furthermore, with respect to the classes/subclasses identified by the Examiner, due to the relatedness of the limitations of the pending claims as addressed, any election by Applicant would necessarily require a search of at least the classes, subclasses identified by the Examiner. That is, the classifications identified by the Examiner, class 428 - Stock material or miscellaneous articles, subclass 298.1 - Fibers are aligned substantially parallel; and class 156 - Adhesive bonding and miscellaneous chemical manufacture, subclass 308.2 - By tackifying substance of self-sustaining lamina to be bonded, should be searched for each of the independent claims. The assertion that the now pending claims present a serious burden would actually increase the Office’s burden, as well as Applicant’s expense, by resulting in multiple applications with duplicative searches and reasonably similar prosecutions.

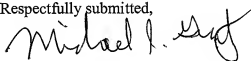
As further stated in MPEP §803, “if the search and examination of all of the claims in an application can be made without serious burden, the Examiner must examine them on the merits, even though they include claims to independent or distinct inventions.” Applicant does not

believe that the requisite serious burden exists. Therefore, as supported above, restriction between the pending claims is considered to be improper. As such, Applicant requests rejoinder of the non-elected claims.

During the telephone communication between Examiner Edwards and Attorney Deheck, the Examiner alluded to new matter issues as well as an obviousness-type double patenting issue with respect to co-pending U.S. Ser. No. 11/572,297. With respect to the alleged obviousness-type double patenting issue, careful review of MPEP §804.IB is now respectfully requested. Furthermore, in an effort to expedite the continued prosecution of this matter, if the Office believes such rejections are proper, Applicant requests the issuance of a complete Office Action fully addressing such objections/rejections to avoid further piecemeal examination of this matter as admonished in MPEP §707.07(g).

Applicant appreciates the Office's consideration and entry of these amendments and remarks. The Director is hereby authorized to charge any additional fees, or credit any overpayments, to deposit account 50-1170.

Respectfully submitted,



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Dated: _____

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